

Plan On It

A Dutchess County Planning Federation eNewsletter

May 2011

Agricultural Districts vs. Agricultural Assessments

What Is the Difference, and Why Do They Matter?

By Noela Hooper, Senior Planner

Unless you run a farm, the recent deadline to apply for an Agricultural Assessment on productive farmland may have escaped your notice. And unless you own farmland, the end of the County's annual Agricultural District enrollment period might also have been overlooked. These two very important, and very different, programs are key to maintaining our rural heritage. If you are a municipal board member or elected official, it is especially important that you understand the purpose of these programs to ensure that they are properly implemented in your community.

If you are already confused, you're not alone. There is a great deal of misunderstanding regarding the differences between Agricultural Districts and Agricultural Assessments, and the purpose of this discussion is to explain them both and describe your community's legal obligation to implement them.



How They Differ and the "Catch"

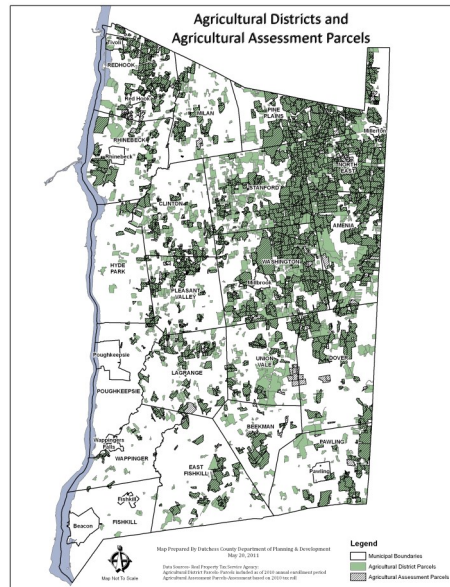
Recognizing that residential and commercial development was eroding the state's farmland, New York State enacted Agricultural Markets Law, Article 25-AA [AML 25-AA] in 1971 to help local governments keep land in agricultural production. Although the law has been amended to reflect the changing challenges and requirements of agricultural production, the Agricultural District and Agricultural Assessment programs established under this law have formed the basis for identifying and protecting farmland in Dutchess County.

The Agricultural **Districts** Program provides "right-to-farm" protections, including defense from private nuisance lawsuits and restrictive local ordinances. The Agricultural **Assessment** Program provides property tax relief for landowners by requiring that eligible farmland is assessed on the basis of actual agricultural production value rather than its full market value.

Here's the thing that seems to cause so much confusion, as explained by the [Dutchess County Agriculture and Farmland Protection Board](#):

- Enrollment in an Agricultural District does **not** automatically qualify the property for the Agricultural Assessment Program, and;
- Farmland qualifying for the Agricultural Assessment Program does **not** have to be enrolled in an Agricultural District.

In other words, landowners that can document production income may qualify for a tax exemption based on the agricultural value of their land (Agricultural Assessment Program), but they must also enroll in the Agricultural District Program to benefit from “right-to-farm” protections.



Map of Dutchess County showing parcels with Agricultural Assessments and parcels enrolled in an Agricultural District.

Qualifying for an Agricultural Assessment

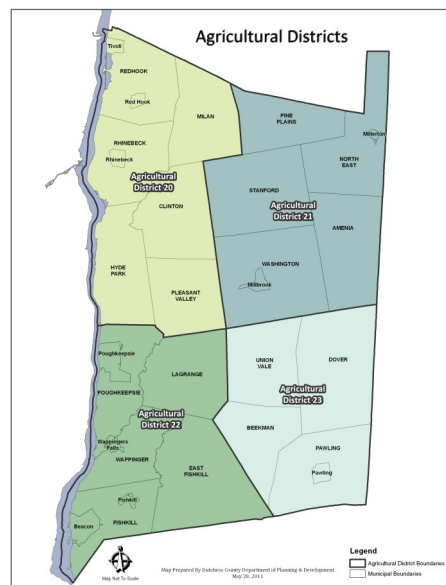
The Farmland Protection Board’s program summary explains:

"Any owner of at least seven acres of land which produces a minimum of \$10,000 annually, or any owner of less than seven acres of land which produces a minimum of \$50,000 annually on average in the preceding two years, from the sale of crops, livestock, or livestock products, or from commercial horse boarding, is eligible to receive an agricultural assessment."

Landowners must apply annually (usually by March 1st) to their local assessors to receive this exemption. Land placed under agricultural assessment and then converted to non-agricultural use is subject to conversion fees. As of December 2010, more than 113,000 acres of Dutchess County farmland had qualified to receive Agricultural Assessments.

Agricultural Districts Program

Dutchess County has four Agricultural Districts that encompass the entire County. Currently there are almost 174,000 acres of certified agricultural district farmland, and every town in Dutchess County includes certified agricultural district parcels. Only farm operations on property that has been certified for inclusion in one of the County’s four Agricultural Districts are entitled to the significant protections enumerated in the Agricultural Districts Law.



Map of Dutchess County’s four agricultural districts.

Getting Certified in a District

The Dutchess County Agriculture and Farmland Protection Board oversees the Agricultural District Certification Program on behalf of the Dutchess County Legislature.

Since the program's inception, the Board has conducted a comprehensive review of the districts at eight-year intervals, submitting its findings to the Legislature for approval and to the NYS Commissioner of Agriculture and Markets for certification. Beginning in 2007, the Legislature also established an annual 30-day enrollment period (April 15 to May 14) when landowners can apply for inclusion in the program.

Applications for inclusion are submitted to the County's Soil and Water Conservation District, which provides an analysis of the acreage on the basis of soils and other conditions. The Board reviews each property and compiles a report recommending qualified parcels for inclusion. In general, the Board bases its review on the land's current or potential viability either as farmland or in support of a farm operation. The Legislature notifies municipalities that parcels are being considered for inclusion, holds a public hearing, and approves a list of parcels that are forwarded to the NYS Commissioner of Agriculture and Markets for review and certification. Once certified, properties can only be removed from the program during the 8-year review process.

Right-to-Farm Protections

The NYS Department of Agriculture and Markets [Guidelines for Review of Local Zoning and Planning Laws](#) provides a detailed account of the protections provided to participating landowners by AML 25-AA, and of each municipality's responsibility to implement state regulations. A few examples:

- "In general, the construction of on-farm buildings and the use of land for agricultural purposes should not be subject to site plan review, special use permits or non-conforming use requirements when conducted in a County-adopted, State certified agricultural district." (Guidelines, p.3)
- "Agricultural farm management practices, including construction, maintenance, and repair of farm buildings and structures, and land use changes consistent with 'generally accepted principles of farming' are designated as Type II actions which do not require preparation of an EAF and are not subject to compliance with SEQR." (Guidelines, p.7)
- "A requirement to screen a farm operation or agricultural structures such as farm labor housing or greenhouses from view has been found by the Department to be unreasonably restrictive." (Guidelines, p.13)
- "Requirements for buffers or setbacks to graze animals, construct fences and otherwise use land for agricultural purposes are generally unreasonably restrictive." (Guidelines, p.13)

The State also reviews zoning issues that include requirements for minimum and maximum building dimensions, lot size, setbacks, sign limitations, and maximum lot coverage.

Additional AML 25-AA provisions requiring submission of Agricultural Data Statements, Notice of Intent (NOI) filings, and Real Estate Disclosure Notices for new development and public projects in agricultural districts are often overlooked by municipalities. [Planning for Agriculture in New York: A Toolkit for Towns and Counties](#), a recent publication from the American Farmland Trust, provides summaries of these and other local responsibilities in its discussion of "Agricultural Districts and Right-to-Farm Laws" (see p. 19 of publication).

"The purpose of agricultural districting is to encourage the continued use of farmland for agricultural production. The Program is based on a combination of landowner incentives and protections, all of which are designed to forestall the conversion of farmland to non-agricultural uses."

— NYS Department of Agriculture and Markets: *Agricultural Districts: Farmer Benefits and Protections*

Restrictions on Local Government Authority

Local officials may not be aware of the restrictions on local government authority imposed by Agricultural Districts Law until a site-specific issue arises. The Law provides a mechanism that allows the NYS Commissioner of Agriculture and Markets to independently initiate a review of a proposed or existing local law or ordinance to ensure compliance with NYS Agricultural Markets Law.

The State conducts a careful review of each issue and relays its findings to municipal officials, with the goal of reaching a solution that is satisfactory to the landowner as well as the municipality. However, "[i]n the case where a municipality rejects the Department's attempts at remediation, the Commissioner of Agriculture and Markets is explicitly authorized by law to bring an action to enforce Section 305-a. Alternatively, the Commissioner may issue an Order to comply, pursuant to Section 36 of the Agriculture and Markets Law." ([Local Laws and Agricultural Districts: How Do They Relate?](#) NYS Department of Agriculture and Markets, 8/11/09.)

The NYS Department of Agriculture and Markets would much prefer the role of advisor to the role of enforcer. They encourage municipalities to forward proposed comprehensive plans and zoning ordinances, before they are adopted, for Agricultural Districts Law compliance review. They also provide a comprehensive series of [guidelines](#) on their website.

Working Together to Support Farming

Municipal regulations are the first line of defense against the erosion of irreplaceable farmland. As the agriculture industry in Dutchess County continues to adapt to the challenges of encroaching development and challenging economic conditions, families that have been operating farms for generations have new neighbors — the next generation of farmers looking for hospitable communities where they can succeed. It is important to recognize that maintaining our rural traditions depends on our willingness to accommodate them.

More Information

NYS Department of Agriculture and Markets:

- [Agricultural Districts Program](#)
- [Local Laws and Agricultural Districts: How Do They Relate?](#)
- [Guidelines for Review of Local Zoning and Planning Laws](#)
- [Agricultural Markets Law, Article 25-AA](#)

Dutchess County Agriculture and Farmland Protection Board:

- [Brochure on Agricultural Assessment & District Programs](#)

Dutchess County:

- Map of [Agricultural Districts](#)
- Map of [Agricultural District parcels](#)
- General information about [agriculture and the environment](#)

American Farmland Trust:

- [Planning for Agriculture in New York: A Toolkit for Towns and Counties](#)

[CLICK HERE](#) to view past issues of the DCPF's newsletter, *Plan On It*.

This newsletter was developed by the Dutchess County Department of Planning and Development, in conjunction with the Dutchess County Planning Federation.

To unsubscribe from our eNewsletter mailing list, please send an email with the word "unsubscribe" in the subject line to DCPlanningFederation@co.dutchess.ny.us.